

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**HOUSE BILL 686**

**46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003**

**INTRODUCED BY**

James G. Taylor

**AN ACT**

**RELATING TO PUBLIC SAFETY; CREATING THE HOMELAND SECURITY DEPARTMENT; PROVIDING POWERS AND DUTIES; TRANSFERRING THE FIRE MARSHAL BUREAU AND THE FIREFIGHTER TRAINING ACADEMY FROM THE PUBLIC REGULATION COMMISSION TO THE DEPARTMENT; TRANSFERRING OTHER PUBLIC SAFETY AND EMERGENCY PREPAREDNESS AND RESPONSE FUNCTIONS; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.**

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:**

**Section 1. [NEW MATERIAL] SHORT TITLE. -- Sections 1 through 11 of this act may be cited as the "Homeland Security Department Act".**

**Section 2. [NEW MATERIAL] PURPOSE. -- The purpose of the Homeland Security Department Act is to establish a unified**

underscored material = new  
[bracketed material] = delete

1 emergency preparedness and response to terrorism system and to  
2 develop counterterrorism strategies.

3 Section 3. [NEW MATERIAL] DEFINITIONS. -- As used in the  
4 Homeland Security Department Act:

5 A. "department" means the homeland security  
6 department; and

7 B. "secretary" means the secretary of homeland  
8 security.

9 Section 4. [NEW MATERIAL] DEPARTMENT CREATED. -- The  
10 "homeland security department" is created as a cabinet-level  
11 department in the executive branch.

12 Section 5. [NEW MATERIAL] SECRETARY OF HOMELAND  
13 SECURITY. --

14 A. The chief executive and administrative officer  
15 of the department is the "secretary of homeland security". The  
16 secretary shall be appointed by the governor with the consent  
17 of the senate. The secretary shall hold that office at the  
18 pleasure of the governor and shall serve in the executive  
19 cabinet.

20 B. An appointed secretary shall serve and have all  
21 of the duties, responsibilities and authority of that office  
22 during the period of time prior to final action by the senate  
23 confirming or rejecting his appointment.

24 Section 6. [NEW MATERIAL] SECRETARY-- DUTIES AND GENERAL  
25 POWERS. --

underscored material = new  
[bracketed material] = delete

1           A. The secretary is responsible to the governor for  
2 the operation of the department. It is the secretary's duty to  
3 manage all operations of the department and to administer and  
4 enforce the laws with which the secretary or the department is  
5 charged.

6           B. To perform these duties, the secretary has every  
7 power expressly enumerated in the laws, whether granted to the  
8 secretary or the department or any division of the department  
9 or any director of any division of the department, except where  
10 authority conferred upon any director or division is explicitly  
11 exempted from the secretary's authority by statute. In  
12 accordance with these provisions, the secretary shall:

13                   (1) except as otherwise provided in the  
14 Homeland Security Department Act, exercise general supervisory  
15 and appointing authority over all department employees, subject  
16 to any applicable personnel laws and rules;

17                   (2) delegate authority to subordinates as the  
18 secretary deems necessary and appropriate, clearly delineating  
19 such delegated authority and the limitations thereto;

20                   (3) organize the department into those  
21 organizational units the secretary deems will enable it to  
22 function most efficiently, subject to any provisions of law  
23 requiring or establishing specific organizational units;

24                   (4) within the limitations of available  
25 appropriations and applicable laws, employ and fix the

underscored material = new  
[bracketed material] = delete

1 compensation of those persons necessary to discharge the  
2 secretary' s duties;

3 (5) purchase or lease personal property,  
4 purchase services and lease real property for use by the  
5 department as the secretary deems necessary, subject to  
6 approval of state agencies if any is required;

7 (6) conduct research and studies that will  
8 improve the operations of the department and the provision of  
9 services to the citizens of the state;

10 (7) provide courses of instruction and  
11 practical training for employees of the department and other  
12 persons involved in the administration of programs with the  
13 objective of improving the operations and efficiency of the  
14 administration;

15 (8) prepare an annual budget of the  
16 department;

17 (9) provide cooperation, at the request of  
18 heads of administratively attached agencies and adjunct  
19 agencies, in order to:

20 (a) minimize or eliminate duplication of  
21 services and jurisdictional conflicts;

22 (b) coordinate activities and resolve  
23 problems of mutual concern; and

24 (c) resolve by agreement the manner and  
25 extent to which the department shall provide budgeting, record

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 keeping and related clerical assistance to administratively  
2 attached agencies; and

3 (10) appoint, with the governor's consent, a  
4 "director" for each division. These appointed positions are  
5 exempt from the provisions of the Personnel Act. Persons  
6 appointed to these positions shall serve at the pleasure of the  
7 secretary.

8 C. The secretary may apply for and receive, with  
9 the governor's approval, in the name of the department any  
10 public or private funds, including United States government  
11 funds, available to the department to carry out its programs,  
12 duties or services.

13 D. The secretary may make and adopt such reasonable  
14 and procedural rules as may be necessary to carry out the  
15 duties of the department and its divisions. A rule promulgated  
16 by the director of any division in carrying out the functions  
17 and duties of the division shall not be effective until  
18 approved by the secretary unless otherwise provided by statute.  
19 Unless otherwise provided by statute, a rule affecting any  
20 person or agency outside the department shall not be adopted,  
21 amended or repealed without a public hearing on the proposed  
22 action before the secretary or a hearing officer designated by  
23 him. The public hearing shall be held in Santa Fe unless  
24 otherwise permitted by statute. Notice of the subject matter  
25 of the rule, the action proposed to be taken, the time and

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 place of the hearing, the manner in which interested persons  
2 may present their views and the method by which copies of the  
3 proposed rule, proposed amendment or repeal of an existing rule  
4 may be obtained shall be published once at least thirty days  
5 prior to the hearing date in a newspaper of general circulation  
6 in the state and mailed at least thirty days prior to the  
7 hearing date to all persons who have made a written request for  
8 advance notice of hearing. All rules shall be filed in  
9 accordance with the State Rules Act.

10 Section 7. [NEW MATERIAL] ORGANIZATIONAL UNITS OF THE  
11 DEPARTMENT-- POWERS AND DUTIES SPECIFIED BY LAW-- ACCESS TO  
12 INFORMATION.-- Those organizational units of the department and  
13 the officers of those units specified by law shall have all of  
14 the powers and duties enumerated in the specific laws involved.  
15 However, the carrying out of those powers and duties shall be  
16 subject to the direction and supervision of the secretary, and  
17 he shall retain the final decision-making authority and  
18 responsibility for the administration of any laws as provided  
19 in Subsection B of Section 6 of the Homeland Security  
20 Department Act. The department shall have access to all  
21 records, data and information of other state departments,  
22 agencies and institutions, including its own organizational  
23 units, not specifically held confidential by law.

24 Section 8. [NEW MATERIAL] DIRECTORS.-- The secretary shall  
25 appoint with the approval of the governor "directors" of

underscored material = new  
[bracketed material] = delete

1 divisions established within the department. The positions so  
2 appointed are exempt from the Personnel Act.

3 Section 9. [NEW MATERIAL] BUREAUS--CHIEFS. --The secretary  
4 shall establish within each division such "bureaus" as he deems  
5 necessary to carry out the provisions of the Homeland Security  
6 Department Act. He shall employ a "chief" to be the  
7 administrative head of each bureau. The chief and all  
8 subsidiary employees of the department shall be covered by the  
9 Personnel Act unless otherwise provided by law.

10 Section 10. [NEW MATERIAL] ADVISORY COMMITTEES. --

11 A. Advisory committees may be created. "Advisory"  
12 means furnishing advice, gathering information, making  
13 recommendations and performing such other activities as may be  
14 instructed or delegated and as may be necessary to fulfill  
15 advisory functions or to comply with federal or private funding  
16 requirements and does not extend to administering a program or  
17 function or setting policy unless specified by law. Advisory  
18 committees shall be appointed in accordance with the provisions  
19 of the Executive Reorganization Act.

20 B. All members of advisory committees appointed  
21 under the authority of this section shall receive as their sole  
22 remuneration for services as members those amounts authorized  
23 by the Per Diem and Mileage Act.

24 Section 11. [NEW MATERIAL] COOPERATION WITH THE FEDERAL  
25 GOVERNMENT--AUTHORITY OF SECRETARY--SINGLE STATE AGENCY

underscored material = new  
[bracketed material] = delete

1 STATUS. --

2 A. The department is authorized to cooperate with  
3 the federal government in the administration of homeland  
4 security, emergency preparedness and emergency response  
5 programs in which financial or other participation by the  
6 federal government is authorized or mandated under state or  
7 federal laws or rules. The secretary may enter into agreements  
8 with agencies of the federal government to implement homeland  
9 security, emergency preparedness and emergency response  
10 programs subject to availability of appropriated state funds  
11 and any provisions of state laws applicable to such agreements  
12 or participation by the state.

13 B. The governor or the secretary may by appropriate  
14 order designate the department or any organizational unit of  
15 the department as the single state agency for the  
16 administration of any homeland security, emergency preparedness  
17 or emergency response program when that designation is a  
18 condition of federal financial or other participation in the  
19 program under applicable federal law or rule. Whether or not a  
20 federal condition exists, the governor may designate the  
21 department or any organizational unit of the department as the  
22 single state agency for the administration of any homeland  
23 security, emergency preparedness or emergency response program.  
24 The designation of a single state agency under the authority  
25 granted in this section shall not be made in contravention of

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 state law.

2 Section 12. Section 8-8-9 NMSA 1978 (being Laws 1998,  
3 Chapter 108, Section 9) is amended to read:

4 "8-8-9. INSURANCE DIVISION. --

5 A. The director of the insurance division is the  
6 "superintendent of insurance" and shall have all the powers and  
7 duties prescribed to him in the New Mexico Insurance Code.

8 B. The insurance division shall consist of such  
9 bureaus as the superintendent of insurance determines for the  
10 orderly conduct of business [~~including the fire marshal bureau.~~  
11 ~~The superintendent of insurance may organize the firefighters~~  
12 ~~training academy as part of the fire marshal bureau or may~~  
13 ~~organize it as a separate bureau]. "~~

14 Section 13. Section 9-19-4 NMSA 1978 (being Laws 1987,  
15 Chapter 254, Section 4, as amended) is amended to read:

16 "9-19-4. DEPARTMENT ESTABLISHED.-- There is created in the  
17 executive branch the "department of public safety". The  
18 department shall be a cabinet department and shall [~~consist of,~~  
19 ~~but not be limited to, five program divisions and one~~  
20 ~~administrative division, as follows] include:~~

- 21 A. the New Mexico state police division;
- 22 B. the special investigations division;
- 23 C. the training and recruiting division;
- 24 D. the technical [~~and emergency~~] support division;
- 25 E. the administrative services division; and

underscored material = new  
[bracketed material] = delete

1 F. the motor transportation division. "

2 Section 14. Section 9-19-7 NMSA 1978 (being Laws 1987,  
3 Chapter 254, Section 7, as amended) is amended to read:

4 "9-19-7. ORGANIZATIONAL UNITS OF DEPARTMENT-- POWERS AND  
5 DUTIES SPECIFIED BY LAW- ACCESS TO INFORMATION. --

6 A. The organizational units of the department and  
7 the officers of those units specified by law shall have all the  
8 powers and duties enumerated in the specific laws involved.

9 However, the carrying out of those powers and duties shall be  
10 subject to the direction and supervision of the secretary, who  
11 shall retain the final decision-making authority and  
12 responsibility for the administration of any such laws as  
13 provided in Subsection B of Section 9-19-6 NMSA 1978. The  
14 department shall have access to all records, data and  
15 information of other state departments, agencies and  
16 institutions, including its own organizational units, not  
17 specifically held confidential by law.

18 B. The New Mexico state police division shall  
19 consist of the commissioned officers and civilian personnel,  
20 including all communications equipment operators, of the New  
21 Mexico state police uniform division and the commissioned  
22 officers and civilian personnel of the New Mexico state police  
23 criminal division and such other personnel as may be assigned  
24 by the secretary or by the governor pursuant to an executive  
25 order as authorized in the Department of Public Safety Act.

underscored material = new  
[bracketed material] = delete

1 C. The special investigations division shall  
2 consist of the staff of the governor's organized crime  
3 prevention commission, [~~the enforcement personnel of the~~  
4 ~~department of~~] alcohol beverage control enforcement personnel  
5 and such other personnel as may be assigned by the secretary or  
6 by the governor pursuant to an executive order as authorized in  
7 the Department of Public Safety Act. The division is  
8 responsible for the enforcement of the Bingo and Raffle Act and  
9 the Liquor Control Act.

10 D. The technical [~~and emergency~~] support division  
11 shall consist of [~~the emergency planning and coordination~~  
12 ~~bureau of the department, the personnel of the hazardous~~  
13 ~~materials emergency response program or plan and~~] such [other]  
14 functions as ~~communications~~, crime laboratory and records.

15 E. The training and recruiting division shall  
16 consist of the personnel of the New Mexico law enforcement  
17 academy, the New Mexico state police training division and all  
18 other training personnel and functions of the department as the  
19 secretary may transfer to this division.

20 F. The administrative services division shall  
21 consist of the administrative services and services divisions  
22 of the New Mexico state police and those administrative support  
23 personnel of the other existing departments, divisions or  
24 offices as the secretary deems necessary. "

25 Section 15. Section 12-10-2 NMSA 1978 (being Laws 1959,  
. 142890. 1

underscored material = new  
[bracketed material] = delete

1 Chapter 190, Section 2, as amended) is amended to read:

2 "12-10-2. PURPOSE. -- The purpose of the State Civil  
3 Emergency Preparedness Act is:

4 A. to ~~[create the]~~ provide state emergency planning  
5 and coordination ~~[bureau of the department of public safety]~~  
6 and to authorize the creation of local offices of civil  
7 emergency preparedness in the political subdivisions of the  
8 state;

9 B. to confer upon the governor and upon the  
10 governing bodies of the state civil emergency preparedness  
11 powers;

12 C. to provide a civil emergency preparedness plan  
13 for the protection of life and property adequate to cope with  
14 disasters resulting from acts of war or sabotage or from  
15 natural or ~~man-made~~ causes other than acts of war;

16 D. to provide for coordination of all civil  
17 emergency preparedness functions of this state with the  
18 comparable functions of the federal government, other states  
19 and localities and of private agencies;

20 E. to initiate programs to render aid in the  
21 emergency restoration of facilities, utilities and other  
22 installations essential to the safety and general welfare of  
23 the public; and

24 F. to provide for assistance and care for persons  
25 displaced, left homeless or otherwise victims of disaster or

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 war conditions. "

2 Section 16. Section 12-10-3 NMSA 1978 (being Laws 1969,  
3 Chapter 33, Section 1, as amended) is amended to read:

4 "12-10-3. [~~EMERGENCY PLANNING AND COORDINATION BUREAU~~]  
5 GOVERNOR'S AUTHORIZED REPRESENTATIVE. --

6 [A. ~~There is created the "emergency planning and~~  
7 ~~coordination bureau" of the department of public safety.~~

8 B. ~~The director of the technical and emergency~~  
9 ~~support division of the department of public safety]~~ The  
10 homeland security department shall be responsible to the  
11 [~~secretary]~~ governor for carrying out the program for civil  
12 emergency preparedness authorized by law, and the secretary of  
13 homeland security shall serve as the governor's authorized  
14 representative at the discretion of the governor. The  
15 [~~emergency planning and coordination bureau chief]~~ homeland  
16 security department shall direct and coordinate the civil  
17 emergency preparedness activities of all state departments,  
18 agencies and political subdivisions and shall maintain liaison  
19 with and cooperate with civil emergency preparedness agencies  
20 and organizations of other states and of the federal  
21 government. "

22 Section 17. Section 12-10-4 NMSA 1978 (being Laws 1959,  
23 Chapter 190, Section 5, as amended) is amended to read:

24 "12-10-4. CIVIL EMERGENCY PREPAREDNESS-- POWERS OF THE  
25 GOVERNOR. --

. 142890. 1

underscored material = new  
[bracketed material] = delete

1           A. The governor shall have general direction and  
2 control of the activities of the [~~emergency planning and~~  
3 ~~coordination bureau~~] homeland security department and shall be  
4 responsible for carrying out the provisions of the State Civil  
5 Emergency Preparedness Act and, in the event of any man-made or  
6 natural disaster causing or threatening widespread physical or  
7 economic harm that is beyond local control and requiring the  
8 resources of the state, shall exercise direction and control  
9 over any and all state forces and resources engaged in  
10 emergency operations or related civil emergency preparedness  
11 functions within the state.

12           B. In carrying out the provisions of the State  
13 Civil Emergency Preparedness Act, the governor is authorized  
14 to:

15                   (1) cooperate with the federal government and  
16 agree to carry out civil emergency preparedness  
17 responsibilities delegated in accordance with existing federal  
18 laws and policies and cooperate with other states and with  
19 private agencies in all matters relating to the civil emergency  
20 preparedness of the state and nation;

21                   (2) issue, amend or rescind the necessary  
22 orders [~~regulations~~] and procedures to carry out the provisions  
23 of the State Civil Emergency Preparedness Act;

24                   (3) provide those resources and services  
25 necessary to avoid or minimize economic or physical harm until

underscored material = new  
[bracketed material] = delete

1 a situation becomes stabilized and again under local self-  
2 support and control, including the provision, on a temporary,  
3 emergency basis, for lodging, sheltering, health care, food,  
4 any transportation or shipping necessary to protect lives or  
5 public property; or for any other action necessary to protect  
6 the public health, safety and welfare;

7 (4) prepare a comprehensive plan and program  
8 for the civil emergency preparedness of the state and to  
9 integrate the state plan and program with the civil emergency  
10 preparedness plans and programs of the federal government and  
11 other states and to coordinate the preparation of plans and  
12 programs for civil emergency preparedness by the political  
13 subdivisions of this state;

14 (5) procure supplies and equipment, to  
15 institute training programs and public information programs and  
16 to take all necessary preparatory actions, including the  
17 partial or full mobilization of state and local government  
18 forces and resources in advance of actual disaster, to ensure  
19 the furnishing of adequately trained and equipped emergency  
20 forces of government and auxiliary personnel to cope with  
21 disasters resulting from enemy attack or other causes; and

22 (6) enter into mutual aid agreements with  
23 other states and to coordinate mutual aid agreements between  
24 political subdivisions of the state."

25 Section 18. Section 12-10-5 NMSA 1978 (being Laws 1959,

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 Chapter 190, Section 6, as amended) is amended to read:

2 "12-10-5. LOCAL CIVIL EMERGENCY PREPAREDNESS. -- The  
3 governing bodies of the political subdivisions of the state are  
4 responsible for the civil emergency preparedness of their  
5 respective jurisdictions. Each political subdivision is  
6 authorized to establish, by ordinance or resolution, a local  
7 office of civil emergency preparedness as an agency of the  
8 local government and responsible to the governing body, in  
9 accordance with the state civil emergency preparedness plan and  
10 program. Every local coordinator of civil emergency  
11 preparedness shall be appointed by the governing body, subject  
12 to the approval of the [~~state director~~] secretary of homeland  
13 security, and such local coordinator shall have direct  
14 responsibility for carrying out the civil emergency  
15 preparedness program of the political subdivision. He shall  
16 coordinate the civil emergency preparedness activities of all  
17 local governmental departments and agencies and shall maintain  
18 liaison with and cooperate with civil preparedness agencies and  
19 organizations of other political subdivisions and of the state  
20 government. Each local organization shall perform civil  
21 emergency preparedness functions within the territorial limits  
22 of the political subdivision within which it is organized."

23 Section 19. Section 12-10-6 NMSA 1978 (being Laws 1959,  
24 Chapter 190, Section 7, as amended) is amended to read:

25 "12-10-6. MUTUAL AID AGREEMENTS. -- Each political

underscored material = new  
[bracketed material] = del etc

1 subdivision may, in cooperation with other public and private  
2 agencies within the state, enter into mutual aid agreements for  
3 reciprocal civil emergency preparedness aid and assistance.

4 [~~Such~~] The agreements shall be consistent with the state civil  
5 emergency preparedness plan, and in time of emergency it shall  
6 be the duty of each local civil emergency preparedness  
7 organization to render assistance within [~~their~~] its  
8 capabilities and in accordance with the provisions of the  
9 program and plan promulgated by the [~~civil-emergency~~  
10 ~~preparedness-division~~] homeland security department. "

11 Section 20. Section 12-10-7 NMSA 1978 (being Laws 1959,  
12 Chapter 190, Section 8, as amended) is amended to read:

13 "12-10-7. AUTHORITY TO MAKE APPROPRIATIONS AND ACCEPT  
14 AID. --

15 A. Each political subdivision of the state shall  
16 have the power to make appropriations in the manner prescribed  
17 by law and, subject to the limitations of the law, for the  
18 payment of expenses of civil emergency preparedness.

19 B. Whenever the federal government or any agency or  
20 officer [~~thereof~~] of the federal government shall offer to the  
21 state or any political subdivision [~~thereof~~] of the state  
22 services, equipment, supplies, materials or funds by way of  
23 gift, grant or loan for purposes of civil emergency  
24 preparedness, the state, acting through the governor, or the  
25 political subdivision, acting with the consent of the governor,

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 may accept the offer and may authorize any officer of the state  
2 or of the political subdivision to receive the aid and  
3 assistance.

4 C. Whenever any private person, firm or corporation  
5 shall offer to the state or to any political subdivision  
6 [~~thereof~~] of the state any aid or assistance for civil  
7 emergency preparedness, the state or the political subdivision  
8 shall be authorized to accept the aid or assistance, subject to  
9 the provisions of this section. "

10 Section 21. Section 12-10-9 NMSA 1978 (being Laws 1959,  
11 Chapter 190, Section 9, as amended) is amended to read:

12 "12-10-9. EXISTING SERVICES AND FACILITIES TO BE UTILIZED  
13 BY AGENCY. --The governor, the [~~director of the technical and~~  
14 ~~emergency support division of the department of public safety~~]  
15 secretary of homeland security and the governing bodies of the  
16 political subdivisions of the state are directed to [~~utilize~~]  
17 use, in carrying out the provisions of the State Civil  
18 Emergency Preparedness Act, the services, equipment, supplies  
19 and facilities of existing departments, offices and agencies of  
20 the state and of the political subdivisions [~~thereof~~] of the  
21 state to the maximum extent practicable, and the officers and  
22 personnel of all such departments, offices and agencies  
23 [~~thereof~~] are directed to cooperate with and extend their  
24 services and facilities to the governor or to the [~~director~~]  
25 secretary of homeland security or to the local [~~coordinators~~]

underscored material = new  
[bracketed material] = delete

1 coordinators of civil emergency preparedness throughout the  
2 state upon request. "

3 Section 22. Section 12-10-10 NMSA 1978 (being Laws 1959,  
4 Chapter 190, Section 10, as amended) is amended to read:

5 "12-10-10. ENFORCEMENT OF EXECUTIVE ORDERS AND  
6 [~~REGULATIONS~~] RULES. --

7 A. It is the duty of all political subdivisions of  
8 the state and their coordinators of the civil emergency  
9 preparedness programs appointed pursuant to the provisions of  
10 the State Civil Emergency Preparedness Act to comply with and  
11 enforce all executive orders and [~~regulations~~] rules made by  
12 the governor or under his authority pursuant to law.

13 B. Political subdivisions shall meet all state and  
14 federal requirements before becoming eligible to participate in  
15 state and federal civil emergency preparedness assistance  
16 programs. They must comply with all state and federal  
17 [~~regulations~~] rules and procedures and shall be removed from  
18 participation in [~~said~~] the assistance programs by the  
19 [~~director~~] secretary of homeland security for failure to comply  
20 with such [~~regulations~~] rules and procedures or to maintain  
21 their eligibility in accordance with prescribed requirements. "

22 Section 23. Section 12-10-13 NMSA 1978 (being Laws 2002,  
23 Chapter 83, Section 4) is amended to read:

24 "12-10-13. IN-STATE LICENSE HOLDERS-- POWERS-- DUTIES. --  
25 During an emergency, a person who holds a license, certificate

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 or other permit that is issued by the state of New Mexico and  
2 that evidences the meeting of qualifications for professional,  
3 mechanical or other skills may be credentialed, if appropriate  
4 and approved by the department of health or the homeland  
5 security department [~~of public safety~~], to render aid involving  
6 those skills to meet a declared emergency, and shall be  
7 considered a public employee for the purposes of the Tort  
8 Claims Act when approved to perform [~~such~~] those duties. "

9 Section 24. Section 59A-52-1 NMSA 1978 (being Laws 1984,  
10 Chapter 127, Section 947, as amended) is recompiled as Section  
11 12-16-1 NMSA 1978 and is amended to read:

12 "12-16-1. STATE FIRE MARSHAL CREATED. --The position of  
13 "state fire marshal" is created as the [~~bureau chief of the~~  
14 ~~fire marshal bureau of the insurance~~] director of the fire  
15 services division of the homeland security department. "

16 Section 25. Section 59A-52-3 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 949, as amended) is recompiled as Section  
18 12-16-2 NMSA 1978 and is amended to read:

19 "12-16-2. DEPUTY STATE FIRE MARSHAL AND OTHER EMPLOYEES--  
20 QUALIFICATIONS OF DEPUTY. --The state fire marshal may, with the  
21 approval of the [~~superintendent~~] secretary of homeland  
22 security, appoint or remove a deputy state fire marshal and  
23 other employees to assist in the execution of the [~~marshal's~~]  
24 duties of the fire services division of the homeland security  
25 department; provided, however, that the state fire marshal and

underscored material = new  
[bracketed material] = delete

1 any deputy state fire marshal [~~appointed by the state fire~~  
2 ~~marshal~~] shall be experienced in fire prevention and fire  
3 fighting and have completed a course of training by actual  
4 attendance at a fire-training school. "

5 Section 26. Section 59A-52-5 NMSA 1978 (being Laws 1984,  
6 Chapter 127, Section 951) is recompiled as Section 12-16-3 NMSA  
7 1978 and is amended to read:

8 "12-16-3. COOPERATION WITH OTHER AGENCIES FOR PREVENTION  
9 AND CONTROL OF FIRES. -- The [~~marshal~~] fire services division of  
10 the homeland security department is authorized to cooperate  
11 with all other groups, organizations and agencies in this state  
12 or in other states in the collection, dissemination and  
13 evaluation of information, statistics and suggestions for  
14 prevention or control of fires. "

15 Section 27. Section 59A-52-6 NMSA 1978 (being Laws 1984,  
16 Chapter 127, Section 952) is recompiled as Section 12-16-4 NMSA  
17 1978 and is amended to read:

18 "12-16-4. FIRE PROTECTION TRAINING PROGRAMS. -- The  
19 [~~marshal~~] fire services division of the homeland security  
20 department shall establish and conduct training programs  
21 throughout the state for demonstrating and teaching firemen  
22 proper methods of preventing and extinguishing fires. The  
23 [~~marshal~~] division shall have available, from funds included in  
24 the general appropriation act of each legislature, money for  
25 use by [~~him~~] the division in establishing and conducting such

underscored material = new  
[bracketed material] = delete

1 training programs. "

2 Section 28. Section 59A-52-7 NMSA 1978 (being Laws 1984,  
3 Chapter 127, Section 953) is recompiled as Section 12-16-5 NMSA  
4 1978 and is amended to read:

5 "12-16-5. TEACHING FIRE PREVENTION AND CONTROL IN PUBLIC  
6 SCHOOLS--RULES FOR SCHOOL BUILDING EVACUATION.--The [~~marshal~~]  
7 fire services division of the homeland security department  
8 shall prescribe reasonable rules [~~and regulations~~] and programs  
9 for the teaching to all school children in the state, whether  
10 in public or private schools, the proper methods of fire  
11 prevention and control. Such rules [~~regulations~~] and programs  
12 shall be submitted to the state department of public education  
13 on or before August [~~first~~] 1 of each year. Among other  
14 things, such rules [~~regulations~~] and programs shall prescribe  
15 drills for evacuating school buildings. "

16 Section 29. Section 59A-52-8 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 954) is recompiled as Section 12-16-6 NMSA  
18 1978 and is amended to read:

19 "12-16-6. INVESTIGATION OF FIRE HAZARDS--ABATEMENT.--The  
20 [~~marshal~~] fire services division of the homeland security  
21 department is authorized to make investigations [~~or require his~~  
22 ~~deputy to make investigations~~] and reports of existing  
23 conditions in the state [~~which~~] that are fire hazards, and to  
24 make reasonable orders for the alleviation of such situations  
25 as [~~he may deem~~] the division deems necessary. If the orders

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 of the [~~marshal~~] division are not carried out by persons to  
2 whom they are directed, [~~he~~] the division shall institute  
3 proper proceedings under municipal ordinances or state laws to  
4 require compliance with [~~his~~] the division's orders, as [~~he may~~  
5 ~~deem~~] it deems necessary. "

6 Section 30. Section 59A-52-9 NMSA 1978 (being Laws 1984,  
7 Chapter 127, Section 955) is recompiled as Section 12-16-7 NMSA  
8 1978 and is amended to read:

9 "12-16-7. MAY ENTER UPON PREMISES. -- The [~~marshal, his~~  
10 ~~deputy, his authorized officer or~~] fire services division of  
11 the homeland security department or its designated agent shall  
12 have authority at all normal hours of operation to enter in and  
13 upon all buildings and premises subject to [~~this article~~]  
14 Chapter 12, Article 16 NMSA 1978 for the purpose of examination  
15 and inspection. "

16 Section 31. Section 59A-52-10 NMSA 1978 (being Laws 1984,  
17 Chapter 127, Section 956) is recompiled as Section 12-16-8 NMSA  
18 1978 and is amended to read:

19 "12-16-8. INVESTIGATION OF FIRES AND EXPLOSIONS--  
20 HEARINGS--USE OF STATE POLICE LABORATORY. -- The [~~marshal or his~~  
21 ~~deputies or employees are authorized to~~] fire services division  
22 of the homeland security department may make investigations  
23 deemed necessary of any fire or explosion, or attempt to cause  
24 any fire or explosion in the state, and [~~to~~] require reports  
25 from [~~his~~] division deputies concerning all fires and

underscored material = new  
[bracketed material] = delete

1 explosions in their districts. For the purpose of such  
2 investigations, the ~~[marshal and his deputies or designated~~  
3 ~~persons are authorized to]~~ division may conduct ~~[hearing]~~  
4 hearings, subpoena witnesses, take testimony and enter upon and  
5 examine any building or premises where any fire or explosion or  
6 attempt to cause a fire or explosion ~~[shall have]~~ has occurred,  
7 or which at the time ~~[may be]~~ is burning. The ~~[marshal or his~~  
8 ~~deputies]~~ division or a designated ~~[persons shall also have]~~  
9 person has the power to cause to be produced ~~[before them]~~ such  
10 papers as ~~[they may require]~~ necessary in making such  
11 examination. In addition, the ~~[marshal or his deputies]~~  
12 division or designated ~~[persons]~~ person may, in ~~[their]~~ his  
13 discretion, take full control and custody of such buildings  
14 ~~[and premises, and place such person in charge thereof as they~~  
15 ~~may deem proper]~~ until ~~[their]~~ the examination and  
16 investigation is completed. For evaluation of the evidence,  
17 the ~~[marshal]~~ division shall have access to the facilities and  
18 personnel of the state police laboratory, and the ~~[executive~~  
19 ~~head of such]~~ laboratory shall cooperate fully with the  
20 ~~[marshal]~~ division. "

21 Section 32. Section 59A-52-11 NMSA 1978 (being Laws 1984,  
22 Chapter 127, Section 957) is recompiled as Section 12-16-9 NMSA  
23 1978 and is amended to read:

24 "12-16-9. WITNESSES--PER DIEM AND MILEAGE. --Witnesses or  
25 persons subpoenaed ~~[under this article]~~ pursuant to Chapter 12,

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 Article 16 NMSA 1978 shall be paid as to time and expense [~~from~~  
2 ~~the fire marshal's fund~~] at per diem and mileage rates on the  
3 same bases and at the same rates as currently apply as to state  
4 employees in general. "

5 Section 33. Section 59A-52-12 NMSA 1978 (being Laws 1984,  
6 Chapter 127, Section 958) is recompiled as Section 12-16-10  
7 NMSA 1978 and is amended to read:

8 "12-16-10. RECORDS OF FIRES OPEN TO PUBLIC. -- The  
9 [~~marshal~~] fire services division of the homeland security  
10 department shall keep open to public inspection, at reasonable  
11 hours, all records of fires occurring within the state. "

12 Section 34. Section 59A-52-13 NMSA 1978 (being Laws 1984,  
13 Chapter 127, Section 959) is recompiled as Section 12-16-11  
14 NMSA 1978 and is amended to read:

15 "12-16-11. TRANSMITTAL OF EVIDENCE INDICATING CRIMINAL  
16 ACTS. -- The [~~marshal~~] fire services division of the homeland  
17 security department shall furnish to the proper law enforcement  
18 officers any evidence [~~he may discover~~] it discovers in [~~his~~]  
19 its investigations [~~which~~] that indicates criminal acts. "

20 Section 35. Section 59A-52-14 NMSA 1978 (being Laws 1984,  
21 Chapter 127, Section 960) is recompiled as Section 12-16-12  
22 NMSA 1978 and is amended to read:

23 "12-16-12. APPROPRIATIONS. -- For the purposes of [~~this~~  
24 ~~article~~] Chapter 12, Article 16 NMSA 1978, an appropriation  
25 shall be included in the general appropriation act of each

underscored material = new  
[bracketed material] = delete

1 legislature, the appropriation to be made from the fire  
2 protection fund, which funds are to be paid out by the  
3 secretary of finance and administration on vouchers signed by  
4 the state fire marshal or his authorized representative. "

5 Section 36. Section 59A-52-15 NMSA 1978 (being Laws 1984,  
6 Chapter 127, Section 961) is recompiled as Section 12-16-13  
7 NMSA 1978 and is amended to read:

8 "12-16-13. FIRE PREVENTION--PUBLIC OCCUPANCIES  
9 [REGULATIONS] RULES. --

10 A. For prevention and control of fires, the ~~[state]~~  
11 fire ~~[board]~~ services division of the homeland security  
12 department shall formulate, adopt and promulgate, and amend or  
13 revise ~~[regulations]~~ rules for fire prevention and safe conduct  
14 or use of public occupancies and rules concerning the sale,  
15 servicing or use of fire safety, prevention, detection or  
16 suppression equipment or materials. For the purposes of this  
17 provision, "public occupancies" consist of places of assembly,  
18 educational occupancies, institutional occupancies, residential  
19 occupancies consisting of four ~~[(4)]~~ or more family units,  
20 mercantile occupancies, office occupancies, industrial  
21 occupancies, storage occupancies and miscellaneous structures  
22 consisting of towers, underground structures and windowless  
23 buildings and all buildings owned or occupied by the state  
24 government or any political subdivision thereof or by municipal  
25 governments ~~[and regulations concerning the sale, servicing or~~

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 ~~use of fire safety, prevention, detection or suppression~~  
2 ~~equipment or materials~~]. The [regulations] rules shall be  
3 adopted after notice and public hearing. The notice shall be  
4 entitled "notice of proposed rule making" and it shall contain  
5 the date of the hearing and shall state the subject of the  
6 hearing. A copy of the notice, along with a copy of the  
7 proposed [regulations] rules, shall be filed with the supreme  
8 court librarian at least twenty [~~20~~] days prior to the  
9 hearing. In addition, the [~~board~~] division shall make  
10 available for inspection at its offices, a copy of the proposed  
11 [~~regulations~~] rules.

12 B. The rules [~~and regulations~~] shall follow  
13 nationwide standards except in the area of life safety codes,  
14 which shall be compatible with the Uniform Building Code, as  
15 revised from time to time, issued by the international  
16 conference of building officials.

17 C. The rules [~~and regulations~~] shall allow  
18 reasonable provision under which facilities in service prior to  
19 the effective date of the rules [~~and regulations~~] and not in  
20 strict conformity therewith may be continued in service.  
21 [~~Nonconforming~~] Nonconforming facilities in service prior to  
22 the adoption of [~~regulations which~~] rules that are found by the  
23 state fire marshal to constitute a distinct hazard to life or  
24 property shall not be exempt from [regulations] rules nor  
25 permitted to continue in service. "

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 Section 37. Section 59A-52-16 NMSA 1978 (being Laws 1984,  
2 Chapter 127, Section 962, as amended) is recompiled as Section  
3 12-16-14 NMSA 1978 and is amended to read:

4 "12-16-14. FLAMMABLE LIQUIDS RULES--NATIONWIDE  
5 STANDARDS-- [SAVINGS] SAVING CLAUSE--DEFINITION. --

6 A. The [~~commission~~] fire services division of the  
7 homeland security department shall adopt rules for the safe  
8 vehicular transportation, storage, handling and use of  
9 flammable and combustible liquids; provided that the  
10 [~~commission~~] division shall not adopt any rule conflicting with  
11 the jurisdiction of the department of environment over the  
12 regulation of storage tanks pursuant to the Hazardous Waste Act  
13 or the Ground Water Protection Act.

14 B. The rules shall be in keeping with the latest  
15 generally recognized safety standards for flammable and  
16 combustible liquids. Rules in substantial conformity with the  
17 published standards of the national fire protection association  
18 for vehicular transportation, storage, handling and use of  
19 flammable and combustible liquids shall be deemed to be in  
20 substantial conformity with the generally accepted and  
21 recognized standards of safety concerning the same subject  
22 matter.

23 C. The rules shall include reasonable provisions  
24 under which facilities in service prior to the effective date  
25 of the rules and not in strict conformity therewith may be

underscored material = new  
[bracketed material] = delete

1 continued in service. Nonconforming facilities in service  
2 prior to the adoption of the rules that are found by the state  
3 fire marshal to constitute a distinct hazard to life or  
4 property may not be excepted from the rules or permitted to  
5 continue in service. For guidance in enforcement, the rules  
6 may delineate those types of nonconformities that should be  
7 considered distinctly hazardous and those nonconformities that  
8 should be evaluated in the light of local conditions. If the  
9 need for compliance with any rule is conditioned on local  
10 factors, the rules shall provide that reasonable notice be  
11 given to the proprietor of the facility affected of intention  
12 to evaluate the need for compliance and of the time and place  
13 at which he may appear and offer evidence thereon.

14 D. As used in Chapter [59A] 12, Article [52] 16  
15 NMSA 1978, the term "flammable liquid" [~~shall mean~~] means any  
16 liquid having a flash point below one hundred degrees  
17 Fahrenheit, and "combustible liquid" shall mean any liquid  
18 having a flash point at or above one hundred degrees Fahrenheit  
19 and below two hundred degrees Fahrenheit. "

20 Section 38. Section 59A-52-18 NMSA 1978 (being Laws 1984,  
21 Chapter 127, Section 964) is recompiled as Section 12-16-15  
22 NMSA 1978 and is amended to read:

23 "12-16-15. RULES [~~AND REGULATIONS~~]- - STATEWIDE EFFECT- -  
24 RESERVED POWER OF MUNICIPALITIES. -- The rules [~~and regulations~~]  
25 promulgated pursuant to [~~this article shall~~] Chapter 12,

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 Article 16 NMSA 1978 have uniform ~~[force and]~~ effect throughout  
2 the state, and ~~[no]~~ a municipality or other political  
3 subdivision shall not enact or enforce any ordinances or rules  
4 ~~[or regulations]~~ inconsistent with the statewide rules ~~[and~~  
5 ~~regulations]~~ promulgated pursuant to ~~[this]~~ that article.  
6 Nothing in ~~[this]~~ that article shall ~~[in any way]~~ impair the  
7 power of ~~[any]~~ a municipality to regulate the use of its land  
8 by zoning, building codes or restricted fire district  
9 ~~[regulations]~~ rules. "

10 Section 39. Section 59A-52-20 NMSA 1978 (being Laws 1984,  
11 Chapter 127, Section 966) is recompiled as Section 12-16-16  
12 NMSA 1978 and is amended to read:

13 "12-16-16. CEASE AND DESIST ORDERS--CERTAIN VIOLATIONS  
14 ARE MISDEMEANORS. --

15 A. When the ~~[marshal, his deputy or his authorized~~  
16 ~~officer]~~ fire services division of the homeland security  
17 department or its designated agent finds ~~[any]~~ a violation of  
18 the ~~[regulations]~~ rules issued in compliance with ~~[this article~~  
19 ~~he or they]~~ Chapter 12, Article 16 NMSA 1978, the division  
20 shall issue an order to the owner or his agent to cease and  
21 desist such ~~[violations]~~ violation.

22 B. ~~[When there is so found any]~~ In the case of a  
23 violation of ~~[any]~~ a statute or ~~[rules and regulations]~~ rule  
24 concerning flammable liquids, a cease and desist order shall  
25 ~~[issue]~~ be issued if the violation constitutes an immediate and

underscored material = new  
[bracketed material] = delete

1 distinct hazard to life or property, and any such violation  
2 shall constitute a misdemeanor punishable by a fine not to  
3 exceed five hundred dollars (\$500). Each day such violation  
4 continues constitutes a separate offense. "

5 Section 40. Section 59A-52-22 NMSA 1978 (being Laws 1984,  
6 Chapter 127, Section 968, as amended) is recompiled as Section  
7 12-16-17 NMSA 1978 and is amended to read:

8 "12-16-17. JUDICIAL REVIEW OF ORDER. --A person aggrieved  
9 by a decision of the [state] fire [marshal] services division  
10 of the homeland security department may appeal to the district  
11 court pursuant to the provisions of Section 39-3-1.1 NMSA  
12 1978. "

13 Section 41. Section 59A-52-23 NMSA 1978 (being Laws 1984,  
14 Chapter 127, Section 969, as amended) is recompiled as Section  
15 12-16-18 NMSA 1978 and is amended to read:

16 "12-16-18. ENFORCEMENT OF CEASE AND DESIST ORDERS. --After  
17 expiration of time for an [administrative] appeal, and if [no]  
18 such appeal has not been taken, the [state] fire [marshal]  
19 services division of the homeland security department may  
20 commence an action in the district court for Santa Fe county to  
21 enforce the cease and desist order by injunction or other  
22 appropriate remedy as the district court may adjudge. [The  
23 ~~commission may likewise commence an action in the district~~  
24 ~~court for Santa Fe county to enforce its decision rendered on~~  
25 ~~appeal from the cease and desist order of the state fire~~

underscored material = new  
[bracketed material] = delete

1 ~~marshal.]~~"

2 Section 42. Section 59A-52-24 NMSA 1978 (being Laws 1984,  
3 Chapter 127, Section 970) is recompiled as Section 12-16-19  
4 NMSA 1978 and is amended to read:

5 "12-16-19. PENALTY FOR VIOLATION OF LAW OR [REGULATIONS]  
6 RULES. -- Violation of [~~any of~~] the provisions of [~~this article~~]  
7 Chapter 12, Article 16 NMSA 1978 or of any of the [~~regulations~~  
8 ~~lawfully enacted pursuant thereto shall constitute~~] rules  
9 adopted in accordance with that article constitutes a  
10 misdemeanor [~~for which the punishment shall be~~] and may be  
11 punished by a fine of not more than five hundred dollars  
12 (\$500). Each day [~~any such~~] a violation continues [~~shall~~  
13 ~~constitute~~] constitutes a separate offense."

14 Section 43. Section 59A-52-25 NMSA 1978 (being Laws 1984,  
15 Chapter 127, Section 971) is recompiled as Section 12-16-20  
16 NMSA 1978 and is amended to read:

17 "12-16-20. PENALTY FOR VIOLATION OF CEASE AND DESIST  
18 ORDER. -- [~~Any~~] A person [~~firm or corporation~~] that violates  
19 [~~any~~] a final cease and desist order [~~shall be~~] is subject to a  
20 penalty in the sum of five hundred dollars (\$500) for each day  
21 [~~such~~] the violation continues. The attorney general [~~is~~  
22 ~~empowered to~~] may bring a civil suit for the enforcement of  
23 this section on the relation of the [~~marshal~~] fire services  
24 division of the homeland security department. Any penalty  
25 collected [~~under~~] pursuant to the provisions of this section

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 shall be credited to the [~~fire protection~~] current school  
2 fund. "

3 Section 44. Section 8-8-9.1 NMSA 1978 (being Laws 2001,  
4 Chapter 80, Section 1) is recompiled as Section 12-16-21 NMSA  
5 1978 and is amended to read:

6 "12-16-21. FIREFIGHTER TRAINING ACADEMY--USE FEE FUND  
7 CREATED.--The "training academy use fee fund" is created in the  
8 state treasury. All fees received by the [~~state fire marshal~~]  
9 homeland security department for use of the firefighter  
10 training academy and its services shall be deposited into the  
11 fund; provided that [~~no~~] a fee shall not be charged the state  
12 [~~of New Mexico~~] or any of its agencies, instrumentalities or  
13 political subdivisions; and provided further that each contract  
14 for services in which a fee is collected shall be entered into  
15 pursuant to a business plan that has been approved by the  
16 department of finance and administration and reviewed by the  
17 legislative finance committee. Balances in the fund shall be  
18 available for appropriation to the [~~state~~] fire [~~marshal~~]  
19 services division of the homeland security department for  
20 paying the operating and capital expenses of the firefighter  
21 training academy. Earnings of the fund shall be credited to  
22 the fund, and the unexpended or unencumbered balance in the  
23 fund shall not revert to any other fund. "

24 Section 45. Section 59A-53-1 NMSA 1978 (being Laws 1984,  
25 Chapter 127, Section 972, as amended) is recompiled as Section  
. 142890. 1

underscored material = new  
[bracketed material] = delete

1 12-17-1 NMSA 1978 and is amended to read:

2 "12-17-1. SHORT TITLE. -- Chapter [59A] 12, Article [53] 17  
3 NMSA 1978 may be cited as the "Fire Protection Fund Law". "

4 Section 46. Section 59A-53-3 NMSA 1978 (being Laws 1984,  
5 Chapter 127, Section 974, as amended) is recompiled as Section  
6 12-17-3 NMSA 1978 and is amended to read:

7 "12-17-3. DETERMINATION AND CERTIFICATION OF NEEDS. --

8 A. Annually, on or before the last day of ~~May~~, the  
9 marshal shall consider and determine, in his reasonable  
10 discretion, the relative needs of incorporated cities, towns  
11 and villages and county fire districts for money in the fire  
12 protection fund, based upon the information available to him,  
13 and shall certify to the state treasurer the names of the  
14 incorporated cities, towns, villages and county fire districts  
15 that he determines need the assistance of a distribution from  
16 the money in the fire protection fund, and the amount required  
17 by each, in accordance with the provisions of Chapter [59A] 12,  
18 Article [53] 17 NMSA 1978. In making this determination and  
19 certification, the marshal [with] shall consider the intent and  
20 purpose of that article that no incorporated city, town or  
21 village or county fire district shall receive money distributed  
22 from the fire protection fund merely for the purpose of  
23 accumulation when the money is not required to accomplish the  
24 purposes of that article.

25 B. In making a determination and certification of

underscored material = new  
[bracketed material] = delete

1 needs, the marshal shall consider and provide for any debt  
2 obligations of existing or previously existing fire departments  
3 or fire districts.

4 C. For the purposes of Chapter ~~[59A]~~ 12, Article  
5 ~~[53]~~ 17 NMSA 1978, "marshal" means the state fire marshal ~~[as~~  
6 ~~further identified in Chapter 59A, Article 52 NMSA 1978]~~. "

7 Section 47. Section 59A-53-5.1 NMSA 1978 (being Laws  
8 1998, Chapter 76, Section 3) is recompiled as Section 12-17-6  
9 NMSA 1978 and is amended to read:

10 "12-17-6. MAXIMUM AMOUNTS TO BE CERTIFIED. --

11 A. For fiscal year 2000 and each fiscal year  
12 thereafter, the marshal shall certify a total amount pursuant to  
13 Sections ~~[59A-53-4 and 59A-53-5]~~ 12-17-4 and 12-17-5 NMSA 1978  
14 not to exceed the greater of the total distribution pursuant to  
15 those sections for the previous fiscal year or an amount to be  
16 determined by adding:

17 (1) one-half of the total increase in the fire  
18 protection fund receipts in the previous fiscal year minus one-  
19 half of the appropriations, from all sources, to the volunteer  
20 firefighters retirement fund in the current fiscal year; and

21 (2) the total distribution pursuant to  
22 Sections ~~[59A-53-4 and 59A-53-5]~~ 12-17-4 and 12-17-5 NMSA 1978  
23 for the previous fiscal year.

24 B. The marshal shall adjust the distributions for  
25 each class in proportion to the increase in the total

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 distribution. "

2 Section 48. Section 59A-53-6 NMSA 1978 (being Laws 1984,  
3 Chapter 127, Section 977, as amended) is recompiled as Section  
4 12-17-7 NMSA 1978 and is amended to read:

5 "12-17-7. APPEAL AND REVIEW OF DETERMINATION. -- The  
6 marshal shall promptly notify each incorporated city, town,  
7 village and county fire district affected of his determination  
8 of needs, and an incorporated city, town, village or county fire  
9 district may appeal from the determination of the marshal to the  
10 [~~commission~~] secretary of finance and administration, within ten  
11 days after the determination of needs. The [~~commission~~]  
12 secretary shall review the determination of the marshal in such  
13 informal and summary proceedings as [~~it~~] he deems proper and  
14 shall certify to the state treasurer annually, on or before the  
15 last day of June, the results of all appeals from the  
16 determinations of the marshal. The certification by the  
17 [~~commission~~] secretary, or by the marshal if no appeal is taken,  
18 shall be final and binding on all concerned and not subject to  
19 any further review. "

20 Section 49. Section 59A-53-7 NMSA 1978 (being Laws 1984,  
21 Chapter 127, Section 978, as amended) is recompiled as Section  
22 12-17-8 NMSA 1978 and is amended to read:

23 "12-17-8. DISTRIBUTION OF FIRE PROTECTION FUND. --

24 A. Annually on or before the last day of July, the  
25 state treasurer shall distribute from the money in the fire

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 protection fund, to each incorporated municipality and to each  
2 county fire district, the amount the marshal or the [~~commission~~]  
3 secretary of finance and administration, as the case may be, has  
4 certified to him. Payment shall be made to the treasurer of any  
5 incorporated municipality and to the county treasurer of the  
6 county in which any county fire district is located for credit  
7 to the county fire district.

8 B. The state treasurer is authorized to redirect a  
9 distribution to the New Mexico finance authority in the amount  
10 the marshal or the [~~commission~~] secretary, as the case may be,  
11 has certified to him pursuant to an ordinance or a resolution  
12 passed by the municipality or county and a written agreement of  
13 the municipality or county in which any county fire district is  
14 located and the New Mexico finance authority."

15 Section 50. Section 59A-53-12 NMSA 1978 (being Laws 1984,  
16 Chapter 127, Section 983, as amended) is recompiled as Section  
17 12-17-13 NMSA 1978 and is amended to read:

18 "12-17-13. PROMULGATION OF RULES [~~AND REGULATIONS~~]. -- The  
19 marshal has authority to promulgate, modify, amend and revoke  
20 from time to time rules [~~and regulations~~], including those for  
21 mutual aid among and between fire departments; provided, that  
22 [~~no such~~] the rules [~~and regulations~~] shall not allow [~~any~~] a  
23 fire department to extend its service in any manner that would  
24 jeopardize the fire insurance rates within its incorporated  
25 city, town or village [~~and~~] or county fire district, as [~~he~~] the

underscored material = new  
[bracketed material] = delete

1 marshal may determine, in his discretion, to be necessary,  
2 advisable or proper to accomplish the objectives of the Fire  
3 Protection Fund Law. Among other things, ~~[these]~~ the rules ~~[and~~  
4 ~~regulations]~~ shall include ~~[but not be limited to]~~ a list of  
5 fire-fighting equipment, apparatus and other items ~~[which]~~ that  
6 may properly be purchased by ~~[any]~~ an incorporated city, town or  
7 village or by ~~[any]~~ a county fire district from funds  
8 distributed from the fire protection fund, and standards of  
9 quality, construction and performance to be met by major fire-  
10 fighting appliances, training requirements, fire-fighting  
11 protective clothing and equipment standards, and by fire  
12 stations and substations, proposed to be purchased or  
13 constructed by ~~[any]~~ an incorporated city, town or village or  
14 county fire district from money distributed from the fire  
15 protection fund. All rules ~~[and regulations]~~ shall be filed and  
16 published as required by law. ~~[Regulations of this nature~~  
17 ~~heretofore promulgated by the superintendent and now in effect]~~  
18 Rules shall continue in effect until ~~[hereafter]~~ revoked or  
19 modified. Nothing in this section shall be construed to grant  
20 regulatory authority over the Volunteer Firefighters Retirement  
21 Act to the marshal."

22 Section 51. Section 59A-53-15 NMSA 1978 (being Laws 1984,  
23 Chapter 127, Section 986, as amended) is recompiled as Section  
24 12-17-16 NMSA 1978 and is amended to read:

25 "12-17-16. APPROPRIATION FROM STATE TREASURY. -- All money

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 [which] that is from time to time [is] deposited in the state  
2 treasury and credited to the fire protection fund is  
3 appropriated to the [~~corporation commission for the use of the~~  
4 ~~marshal~~] fire services division of the homeland security  
5 department for the purposes set out in Chapter [59A] 12, Article  
6 [53] 17 NMSA 1978 and shall be distributed by the state  
7 treasurer and expended as provided in that article. [Hereafter]  
8 All sums in excess of one hundred thousand dollars (\$100,000)  
9 for pro rata distribution plus seventy-five percent of the  
10 approved [state] fire [~~marshal~~] services division budget for the  
11 succeeding fiscal year plus the amount certified to be  
12 distributed as provided in that article shall be credited to the  
13 general fund on or before June 30 of each fiscal year."

14 Section 52. Section 74-4B-3 NMSA 1978 (being Laws 1983,  
15 Chapter 80, Section 3, as amended by Laws 1997, Chapter 152,  
16 Section 1 and also by Laws 1997, Chapter 231, Section 1) is  
17 amended to read:

18 "74-4B-3. DEFINITIONS.--As used in the Emergency  
19 Management Act:

20 A. "accident" means an event involving hazardous  
21 materials that may cause injury to persons or damage to property  
22 or release hazardous materials to the environment;

23 B. "administrator" means the hazardous materials  
24 emergency response administrator;

25 C. "board" means the hazardous materials safety

underscored material = new  
[bracketed material] = delete

1 board;

2 D. "chief" means the chief of the New Mexico state  
3 police division of the department of public safety;

4 E. "commission" means the state emergency response  
5 commi ssi on;

6 F. "department" means the homeland security  
7 department [~~of public safety~~];

8 G. "emergency management" means the ability to  
9 prepare for, respond to, mitigate, recover and restore the scene  
10 of an institutional, industrial, transportation or other  
11 accident;

12 H. "first responder" means the first law enforcement  
13 officer or other public service provider with a radio-equipped  
14 vehicle to arrive at the scene of an accident;

15 I. "hazardous materials" means hazardous substances,  
16 radioactive materials or a combination of hazardous substances  
17 and radioactive materials;

18 J. "hazardous substances" means flammable solids,  
19 semisolids, liquids or gases; poisons; corrosives; explosives;  
20 compressed gases; reactive or toxic chemicals; irritants; or  
21 biological agents, but does not include radioactive materials;

22 K. "orphan hazardous materials" means hazardous  
23 substances, radioactive materials, a combination of hazardous  
24 substances and radioactive materials or substances used in the  
25 manufacture of controlled substances in violation of the

. 142890. 1

underscored material = new  
[bracketed material] = del ete

1 Controlled Substances Act where an owner of the substances or  
2 materials cannot be identified;

3 L. "plan" means the statewide hazardous materials  
4 emergency response plan;

5 M "radioactive materials" means any material or  
6 combination of materials that spontaneously emits ionizing  
7 radiation. Materials in which the estimated specific activity  
8 is not greater than 0.002 microcuries per gram of material are  
9 not considered to be radioactive materials unless determined to  
10 be so by the hazardous and radioactive materials bureau of the  
11 water and waste management division of the department of  
12 environment for purposes of emergency response pursuant to the  
13 Emergency Management Act;

14 N. "responsible state agency" means an agency  
15 designated in Subsection D of Section 74-4B-5 NMSA 1978 with  
16 responsibility for managing a certain type of accident or  
17 performing certain functions at the scene of such accident;

18 O. "secretary" means the secretary of [~~public~~  
19 ~~safety~~] homeland security; and

20 P. "task force" means the emergency management task  
21 force."

22 Section 53. Section 74-4B-4 NMSA 1978 (being Laws 1983,  
23 Chapter 80, Section 4, as amended) is amended to read:

24 "74-4B-4. STATE RESPONSIBILITY FOR MANAGEMENT OF  
25 ACCIDENTS-- IMMUNITY FROM LIABILITY-- COOPERATIVE AGREEMENTS--

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 PRIVATE PROPERTY. --

2 A. The secretary [~~shall have~~] has final authority to  
3 administer the provisions of the Emergency Management Act.

4 B. As between state and local governments, the state  
5 government has the primary responsibility for the management of  
6 an accident, and the local government in whose jurisdiction the  
7 accident occurs shall assist the state in its management of the  
8 accident.

9 C. Nothing in the Emergency Management Act shall be  
10 construed as a waiver or alteration of the immunity from  
11 liability granted under the Tort Claims Act or as a waiver of  
12 any other immunity or privilege under law.

13 D. The state, through the secretary or his designee,  
14 may enter into cooperative agreements with county and municipal  
15 governments for the management of accidents based on the  
16 severity of the accident and the resources of the local  
17 government. The plan shall set forth the criteria for  
18 determining when an accident may be managed by the local  
19 government in whose jurisdiction the accident occurred.

20 E. The secretary shall support emergency response  
21 capabilities by assisting local and state responders in the  
22 acquisition of equipment, training and hazardous materials  
23 information.

24 F. The state, through the secretary or his designee,  
25 may enter into cooperative agreements with the federal

underscored material = new  
[bracketed material] = delete

1 government, Indian tribes and pueblos and bordering states for  
2 assistance in the management of accidents.

3 G. Whenever an accident appears imminent or has  
4 occurred, employees or authorized persons of responsible state  
5 agencies as defined in Section 74-4B-5 NMSA 1978 are authorized  
6 to enter upon any premises for the purpose of determining  
7 whether it is necessary for emergency management procedures to  
8 be implemented. The state on-scene coordinator or a responsible  
9 state agency may take full control and custody of the premises  
10 for the purpose of managing the accident. "

11 Section 54. Section 74-4B-5 NMSA 1978 (being Laws 1983,  
12 Chapter 80, Section 5, as amended) is amended to read:

13 "74-4B-5. STATE POLICE EMERGENCY RESPONSE OFFICER--  
14 PROCEDURE FOR NOTIFICATION--COOPERATION OF OTHER STATE AGENCIES  
15 AND LOCAL GOVERNMENTS. --

16 A. The secretary, in addition to having final  
17 authority to administer the provisions of the Emergency  
18 Management Act, [~~shall be~~] is responsible for central  
19 coordination and communication in the event of an accident.

20 B. The chief shall designate one or more persons to  
21 be known as "state police emergency response officers". A state  
22 police emergency response officer shall be trained in accident  
23 evaluation and emergency response and shall be available to  
24 answer an emergency response call from the first responder.

25 C. In the event of an accident, if the first

underscored material = new  
[bracketed material] = delete

1 responder is a law enforcement officer, he shall immediately  
2 notify the state police district emergency response officer in  
3 his area, who shall in turn immediately notify the state police  
4 emergency response center. If the first responder is a person  
5 with radio capability tied into the radio communications bureau  
6 of the [~~information systems~~] communications division of the  
7 general services department, he shall immediately notify Santa  
8 Fe control, who shall in turn immediately notify the [~~state~~  
9 ~~police~~] emergency response center. The [~~state police~~] emergency  
10 response center shall:

11 (1) evaluate and determine the scope of the  
12 accident based on information provided by the first responder;

13 (2) instruct the first responder on how to  
14 proceed at the accident scene;

15 (3) immediately notify the appropriate  
16 responsible state agency and advise it of the necessary  
17 response;

18 (4) notify the sheriff or chief of police in  
19 whose jurisdiction the accident occurred; and

20 (5) coordinate field communications and summon  
21 additional resources requested by the emergency management team.

22 D. The responsible state agencies shall be:

23 (1) the department for coordination;

24 [~~(1)~~] (2) the New Mexico state police division  
25 of the [~~public safety~~] department of public safety for

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 [e~~o~~o~~r~~dination] law enforcement and traffic and crowd control;  
2 [~~(2)~~] (3) the environmental [~~i~~improvement]  
3 protection division of the [~~h~~health~~-and~~] department of  
4 environment [~~d~~epartment] for assistance with accidents involving  
5 [~~r~~adioactive~~-or~~] hazardous materials or hazardous substances;

6 [~~(3)~~] (4) the [state] fire [~~m~~arshal's~~-office~~]  
7 services division of the department for assistance with any  
8 accident involving hazardous materials;

9 [~~(4)~~] (5) the primary care and emergency  
10 medical services bureau of the public health [~~s~~ervices] division  
11 of the department of health [~~and-environment-department~~] for  
12 assistance with accidents involving casualties;

13 [~~(5)~~] (6) the [~~e~~mergency~~-planning-and~~  
14 ~~co~~ordination~~-bureau-of-the-public-safety~~] department and the  
15 military [~~d~~ivision] divisions of the department of military  
16 affairs for assistance with accidents [~~w~~hich] that require the  
17 evacuation of the vicinity of the accident or the use of the  
18 national guard of New Mexico; and

19 [~~(6)~~] (7) the state highway and transportation  
20 department for assistance with road closures, designating  
21 alternate routes and related services.

22 E. Other state agencies and local governments shall  
23 assist the responsible state agencies when requested to do so.

24 F. Any driver of a vehicle carrying hazardous  
25 materials involved in an accident [~~w~~hich] that may cause injury

underscored material = new  
[bracketed material] = delete

1 to persons or property or any owner, shipper or carrier of  
2 hazardous materials involved in an accident who has knowledge of  
3 such accident or any owner or person in charge of any building,  
4 premises or facility where such an accident occurs shall  
5 immediately notify the New Mexico state police division of the  
6 [~~public safety~~] department of public safety by the quickest  
7 means of communication available. "

8 Section 55. Section 74-4B-6 NMSA 1978 (being Laws 1983,  
9 Chapter 80, Section 6, as amended) is amended to read:

10 "74-4B-6. EMERGENCY MANAGEMENT TASK FORCE--CREATED--  
11 POWERS AND DUTIES. --

12 A. The "emergency management task force" is created,  
13 composed of:

14 (1) the secretary or his designee, who shall  
15 serve as chairman of the task force;

16 [~~(1)~~] (2) the chief or his designee, who shall  
17 serve as vice chairman of the task force;

18 [~~(2)~~] (3) the state fire marshal or his  
19 designee;

20 [~~(3)~~] (4) a staff member of the environmental  
21 [~~improvement~~] protection division who is knowledgeable about  
22 radioactive materials, to be designated by the director of the  
23 division;

24 [~~(4)~~] (5) a staff member of the environmental  
25 [~~improvement~~] protection division who is knowledgeable about

underscored material = new  
[bracketed material] = delete

1 hazardous substances, to be designated by the director of the  
2 division;

3 [~~(5)~~] (6) the director of the [~~technical and~~  
4 ~~emergency support~~] motor transportation division of the  
5 department of public safety or his designee;

6 [~~(6)~~] (7) the chief of the primary care and  
7 emergency medical services bureau or his designee;

8 [~~(7)~~] (8) the secretary of highway and  
9 transportation or his designee;

10 [~~(8) the chairman of the state corporation~~  
11 ~~commission or his designee;~~]

12 (9) a representative of the governor, to be  
13 appointed by the governor, who is not an employee of any agency  
14 represented on the task force [~~and who shall serve as chairman~~  
15 ~~of the task force~~]; and

16 [~~(10) the secretary of taxation and revenue or~~  
17 ~~his designee; and~~

18 (~~(11)~~) (10) the director of the [~~information~~  
19 ~~systems~~] communications division of the general services  
20 department or his designee.

21 B. The attorney general's office shall serve as  
22 attorney for the task force.

23 C. The task force shall, at the direction of the  
24 [~~state emergency response~~] commission, develop and monitor a  
25 comprehensive plan, to include:

. 142890. 1

underscored material = new  
[bracketed material] = del etc

1 (1) procedures for initially assessing the  
2 scope and nature of an accident;

3 (2) procedures for notifying and assembling  
4 the proper emergency management team from the responsible state  
5 agencies;

6 (3) procedures for siting and operating an on-  
7 scene command post;

8 (4) an inventory and assessment of manpower,  
9 equipment and training within each responsible state agency as  
10 well as other state agencies and local governments and federal  
11 and private sources;

12 (5) an assessment of the adequacy and  
13 availability of training materials and facilities to train and  
14 cross-train emergency response teams and other persons involved  
15 in responding to an accident and an identification of training  
16 requirements to [~~assure~~] ensure that such persons are adequately  
17 trained;

18 (6) the development of training programs for  
19 emergency response teams and other persons involved in  
20 responding to an accident;

21 (7) procedures for decontamination of  
22 emergency management personnel and equipment as well as medical  
23 and other facilities [~~which~~] that may be used in the management  
24 of the accident;

25 (8) identification of the medical resources in

underscored material = new  
[bracketed material] = delete

1 the state and the location of specialized medical facilities for  
2 use in medical emergencies;

3 (9) information and training programs for  
4 hospital emergency room personnel and doctors;

5 (10) procedures for accident assessment and  
6 record keeping;

7 (11) procedures for periodic emergency  
8 management preparedness exercises and testing of the plan;

9 (12) a designation of areas of responsibility  
10 in the emergency management plan, including [~~but not limited~~  
11 ~~to~~]:

12 (a) command and control of the accident  
13 scene and overall responsibility and authority for all emergency  
14 response activity;

15 (b) public health and safety, including  
16 rescue operations, emergency medical services, evacuation and  
17 containment of the accident scene;

18 (c) sanitation and decontamination  
19 services at the accident scene;

20 (d) communications, including statewide  
21 and on-scene communications;

22 (e) public works and engineering;

23 (f) transportation;

24 (g) social services;

25 (h) accident assessment, investigation

underscored material = new  
[bracketed material] = delete

1 and record keeping;

2 (i) protective response, including  
3 hazardous materials exposure control;

4 (j) environmental monitoring, control and  
5 cleanup; and

6 (k) public information;

7 (13) criteria for determining when an accident  
8 may be handled by a local government;

9 (14) procedures for entering into cooperative  
10 agreements between the state and local governments and between  
11 the state and the federal government, Indian tribes and pueblos  
12 and bordering states pursuant to Section 74-4B-4 NMSA 1978; and

13 (15) identification of information management  
14 resources necessary for effective emergency response activity.

15 D. The task force shall develop liaison with the  
16 trucking industry, the railroads and other areas of the private  
17 sector in the formulation of the plan. "

18 Section 56. Section 74-4B-6.1 NMSA 1978 (being Laws 1984,  
19 Chapter 41, Section 6, as amended) is amended to read:

20 "74-4B-6.1. HAZARDOUS MATERIALS EMERGENCY RESPONSE  
21 ADMINISTRATOR--CREATED--DUTIES.--

22 A. The position of "hazardous materials emergency  
23 response administrator" is created within the [~~technical and~~  
24 ~~emergency support division of the public safety~~] department.

25 B. The administrator shall, subject to the approval

. 142890. 1

underscored material = new  
[bracketed material] = delete

1 of the [~~director of the technical and emergency support division~~  
2 ~~of the public safety department~~] secretary, provide staff  
3 support to the task force and the board and shall:

4 (1) maintain inventories and databases  
5 relevant to the task force and board activities;

6 (2) maintain current rosters of emergency  
7 response personnel and other contact persons with knowledge,  
8 resources and capabilities for emergency response functions;

9 (3) update the plan and accompanying documents  
10 at the direction of the task force;

11 (4) schedule activities required by the task  
12 force and board; and

13 (5) perform other duties requested by the task  
14 force and board in accordance with the provisions of the  
15 Emergency Management Act and the plan.

16 C. Money appropriated to the [~~public safety~~]  
17 department for administering the Emergency Management Act or  
18 received through grants or other sources shall be expended upon  
19 vouchers signed by the [~~director of the technical and emergency~~  
20 ~~support division of the public safety department~~] secretary or  
21 his authorized representative. "

22 Section 57. Section 74-4B-8 NMSA 1978 (being Laws 1983,  
23 Chapter 80, Section 8, as amended) is amended to read:

24 "74-4B-8. HAZARDOUS MATERIALS SAFETY BOARD-- CREATION--  
25 DUTIES. --

. 142890. 1

underscored material = new  
[bracketed material] = delete

1           A. There is created the "hazardous materials safety  
2 board", composed of the training officers of the responsible  
3 state agencies. The chairman of the board shall be elected by  
4 the members of the board.

5           B. The board shall, at the direction of the [~~state~~  
6 ~~emergency response~~] commission:

7                   (1) establish a curriculum of accident  
8 response training for the personnel of each responsible state  
9 agency, designed to implement the plan adopted by the task  
10 force;

11                   (2) certify to each responsible state agency  
12 those persons who have completed the training curriculum or  
13 parts of the curriculum;

14                   (3) meet at least every four months to review  
15 the training needs of each responsible state agency and  
16 formulate a plan to meet those needs;

17                   (4) conduct, under the direction and  
18 administration of the state fire marshal, an annual  
19 comprehensive training course for all appropriate personnel from  
20 responsible state agencies, other state agencies and local  
21 governments, which course shall include teaching the basic  
22 duties, responsibilities and procedures of responsible state  
23 agencies, other state agencies and local governments;

24                   (5) in conjunction with the task force,  
25 prepare and submit to the [~~state emergency response~~] commission

underscored material = new  
[bracketed material] = del ete

1 a budget for statewide training needs; and

2 (6) cooperate with and assist the task force  
3 as requested, including providing the task force with any  
4 requested information regarding safety and training of emergency  
5 response personnel. "

6 Section 58. Section 74-4B-13 NMSA 1978 (being Laws 1992,  
7 Chapter 5, Section 2) is amended to read:

8 "74-4B-13. ORPHAN MATERIAL RECOVERY FUND ESTABLISHED. --

9 A. There is created in the state treasury the  
10 "orphan material recovery fund". The fund shall be invested as  
11 other state funds are invested. All money remaining in the  
12 orphan material recovery fund at the end of any fiscal year  
13 shall remain in that fund.

14 B. The department of environment shall administer  
15 the orphan material recovery fund. Money in the fund is  
16 appropriated to the department of environment for the purpose of  
17 contracting for the disposal of orphan hazardous materials:

18 (1) held in the possession of the department  
19 of environment; and

20 (2) identified by state emergency response  
21 officers.

22 C. Any expenditures made from the orphan material  
23 recovery fund that are recovered from [the] a party identified  
24 as responsible for the orphan hazardous materials shall be  
25 credited to the fund.

. 142890. 1

underscored material = new  
[bracketed material] = del ete

1           D. If the cost of disposing orphan hazardous  
2 materials exceeds the balance available in the orphan material  
3 recovery fund, the secretary of environment is authorized to  
4 seek and the state board of finance is authorized to disburse  
5 funds from the state board of finance emergency fund in an  
6 amount necessary to cover the deficit in the orphan material  
7 recovery fund. "

8           Section 59. Section 74-4B-14 NMSA 1978 (being Laws 1992,  
9 Chapter 5, Section 3, as amended) is amended to read:

10           "74-4B-14. CLEANUP OF ORPHAN HAZARDOUS MATERIALS--  
11 DEPARTMENT RECOURSE--APPEAL. --The department of environment may  
12 assess charges against a party identified as responsible for  
13 orphan hazardous materials, for costs the department of  
14 environment incurs in cleanup of the orphan hazardous materials  
15 and for damage to state property. Amounts received in payment  
16 of assessments for cleanup of the orphan hazardous materials  
17 shall be deposited in the orphan material recovery fund.  
18 Amounts received in payment of assessments for damage to state  
19 property shall be used to repair the damage. A person who is  
20 assessed charges pursuant to this section may appeal the  
21 assessment to the district court pursuant to the provisions of  
22 Section 39-3-1.1 NMSA 1978. "

23           Section 60. TEMPORARY PROVISION--TRANSFER OF PERSONNEL,  
24 APPROPRIATIONS, MONEY AND PROPERTY TO THE HOMELAND SECURITY  
25 DEPARTMENT-- CONTRACTUAL OBLIGATIONS-- STATUTORY REFERENCES. --

underscored material = new  
[bracketed material] = delete

1           A. On the effective date of this act, all personnel,  
2 appropriations, money, records, furniture, equipment, supplies  
3 and other property of the fire marshal bureau and the  
4 firefighter training academy of the public regulation commission  
5 are transferred to the homeland security department.

6           B. On the effective date of this act, all  
7 contractual obligations of the fire marshal bureau and the  
8 firefighter training academy of the public regulation commission  
9 shall be contractual obligations of the homeland security  
10 department.

11           C. On the effective date of this act, all references  
12 in the law to the state fire marshal or the fire marshal bureau  
13 shall be deemed to be references to the fire services division  
14 of the homeland security department. All references in the law  
15 to the firefighter training academy shall be deemed to be  
16 references to the firefighter training academy of the homeland  
17 security department.

18           Section 61. APPROPRIATION.--Two hundred fifty thousand  
19 dollars (\$250,000) is appropriated from the general fund to the  
20 homeland security department for expenditure in fiscal year 2004  
21 to pay expenses related to the creation of the department. Any  
22 unexpended or unencumbered balance remaining at the end of  
23 fiscal year 2004 shall revert to the general fund.

24           Section 62. RECOMPILATION.--Sections 59A-53-2, 59A-53-4,  
25 59A-53-5, 59A-53-8 through 59A-53-11, 59A-53-13, 59A-53-14,

. 142890. 1

underscored material = new  
[bracketed material] = del ete

1 59A-53-16 and 59A-53-17 NMSA 1978 (being Laws 1984, Chapter 127,  
2 Sections 973 through 975, Laws 1989, Chapter 312, Section 5,  
3 Laws 1984, Chapter 127, Sections 979 through 982, 984, 985, 987  
4 and 988, as amended) are recompiled as Sections 12-17-2,  
5 12-17-4, 12-17-5, 12-17-9 through 12-17-12, 12-17-14, 12-17-15,  
6 12-17-17 and 12-17-18 NMSA 1978.

7 Section 63. REPEAL. -- Sections 59A-52-2, 59A-52-4,  
8 59A-52-17, 59A-52-19 and 59A-52-21 NMSA 1978 (being Laws 1984,  
9 Chapter 127, Sections 948, 950, 963, 965 and 967, as amended)  
10 are repealed.

11 Section 64. EMERGENCY. -- It is necessary for the public  
12 peace, health and safety that this act take effect immediately.

13 - 56 -  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25